

May 30, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E9800732**

LAUREL A. NIGHTINGALE
Code Enforcement Appeal

Location: 27102 – 78th Avenue South

Appellant: **Laurel A. Nightingale**
27102 – 78th Avenue South
Kent, WA 98032
Telephone: (253) 854-5177

Department: Department of Development and Environmental Services
Building Services Division
Steve Wright, Code Enforcement Section
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7103
Facsimile: (206) 296-6604

FINDINGS:

1. The subject 2.33 acre parcel located at 27102 – 78th Avenue South in King County is owned by Laurel Nightingale. Following several complaints, inspections and 2 letters of violation to Ms. Nightingale, the Department of Development and Environmental Services (DDES) served “notice of King County code violation: civil penalty order: abatement order: notice of lien: duty to notify” (notice and order) on the property owner on September 16, 1999. Ms. Nightingale, hereinafter the “Appellant,” timely appealed. In her appeal, the Appellant does not contest the essential facts. Rather, she has consistently requested additional time to comply with the Department’s order. These are the essential facts:

- The subject property is zoned for agriculture, A-10. The A zoning classifications do not authorize the outdoor storage of non-agricultural vehicles, junk, scrap and debris.
 - As of March 1, 2001, eighteen (18) vehicles and a boat were parked or “staged” in the westernmost part of the property, including 16/18 wheeler “semi” trailers, trucks, and automobiles. In addition, a 45-foot trailer is parked in that portion of the property, containing household goods which the Appellant intends to remove from the premises.
 - A 50-foot-long mobile “single-wide” home, badly deteriorated, is located in the southeastern quadrant of the property, together with an additional 20 cars and trucks. Approximately half of those vehicles are inoperable.
 - In the northeast quadrant of the property, there lies a substantial staging of lumber, pipe, building materials, scrap metal, and related debris.
 - Although the Appellant has made some progress toward compliance, that progress has been slow, reports Code Enforcement Officer Wright. Appellant Nightingale contends that the 18 vehicles located in the western portion of the property are staged for near term removal. Appellant Nightingale and associate John Schlorette contend that they have been working consistently to clear the property and to prepare it for sale.
2. This matter came before the Hearing Examiner in November of 1999, whereupon the Examiner scheduled a pre-hearing conference for December 6, 1999. At the Appellant’s request, the pre-hearing conference was postponed until January 12, 2000. Following a series of further continuances and compliance orders, a pre-hearing conference was conducted on August 29, 2000. Pursuant to that pre-hearing conference the hearing on the Nightingale appeal was first set for November 21, 2000, then postponed to December 19, 2000. Subsequently, the hearing on this matter was further continued to February 13, 2001, then again to March 1, 2001. At that hearing, the Examiner agreed to postpone a decision on the appeal in order to allow the Appellant additional time to comply. Again, through a series of continuances, the record has remained open in order to obtain evidence of substantial compliance. That evidence has not been forthcoming. See, particularly, exhibit no. 10.
3. On May 17, 2001, Code Enforcement Officer Wright reported to the Examiner on his May 8, 2001 inspection of the subject property (exhibit no. 10). He found that “there has not been substantial progress made toward compliance.” He stated further that, “most if not all of the cars and trucks remained as well as the junk and mobile home.” In his interim compliance order of March 7, 2001, the Examiner stated in part:

If substantial progress is shown, the Appellant may continue to clear the property without any further code enforcement action against her. If substantial progress is not shown, then the Examiner will enter a final decision and order on this matter.

Appellant Nightingale filed her reply to that report indicating that she disagreed with Mr. Wright's observations and arguing that what Mr. Wright actually saw was staging and preliminary measures directed toward achieving compliance.

CONCLUSIONS:

The subject property stands in violation of KCC 21A.08.030, KCC 21A.08.090, KCC 21A.32.230, KCC 16.04 and Section 1001.11 of the Uniform Housing Code as cited by the Department in its September 16, 1999 notice and order. Storage of wrecked or inoperable vehicles, together with an accumulation of junk and debris, remains on the subject property. Commercial trucks and commercial storage containers continue to be maintained on the property.

As noted above, the Appellant has never disputed the essential facts concerning the code violation. Rather, the Appellant has consistently asked for the patience and forbearance of the Department and the Examiner. Unfortunately, with this code enforcement file now three years old, substantial compliance has not yet been achieved. The Appellant appears sincere and well intentioned, but, nonetheless, unable to create the required results.

DECISION:

Laurel Nightingale's appeal from the Department's September 16, 1999 notice and order is **DENIED**. The order which follows below incorporates the same compliance schedule as contained in that notice and order. To this date, no civil penalties have accrued.

ORDER:

Appellant Nightingale shall correct all violations indicated in the department's September 16, 1999 notice and order **no later than July 30, 2001**, or she shall incur an initial civil penalty for each resolved violation in the amount of \$1,000. If Appellant Nightingale fails to comply with the notice and order by **August 30, 2001**, she shall incur an additional civil penalty for each unresolved violation in the amount of \$1,500. If Appellant Nightingale fails to comply with the order by **September 14, 2001**, she shall incur another additional civil penalty for each unresolved violation in the amount of \$2,000. Any costs of enforcement including legal and incidental expenses which exceed the amount of the penalties may also be assessed against the property and property owner.

King County may proceed to abate the violations and cause the work to be done and charge the costs thereof as a lien against the real property.

This order does not limit the Department or the Prosecuting Attorney in any way from prosecuting this matter in any other manner provided by law.

ORDERED this 30th day of May, 2001.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 30th day of May, 2001, to the following parties and interested persons:

Laurel A. Nightingale
27102 – 78th Avenue So
Kent WA 98032

John Schlorette
27102 - 78th Avenue So
Kent Wa 98032

Elizabeth Deraitus
DDES/BSD
Code Enforcement Section
MS OAK-DE-0100

Steve Wright
DDES/BSD
Code Enforcement
MS OAK-DE-0100

Roger Bruckshen
DDES/BSD
Code Enforcement
MS OAK-DE-0a00

NOTICE OF RIGHT TO APPEAL

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision.

MINUTES OF THE MARCH 1, 2001 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILES NO. E9800732 – LAUREL A NIGHTINGALE:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Steve Wright. Participating in the hearing and representing the Appellant was Laurel Nightingale and John Schlorette. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES Staff Report to the Hearing Examiner, dated December 19, 2000
Exhibit No. 2	Copy of Notice & Order issued September 16, 1999
Exhibit No. 3	Copy of Appeal received October 12, 1999
Exhibit No. 4	V1 letter issued July 27, 1998
Exhibit No. 5	V2 letter issued March 12, 1999
Exhibit No. 6	Faxed proposal dated February 22, 2000
Exhibit No. 7	Site Plan drawn by Mr. Schlorette
Exhibit No. 8	Schedule outlined by Mr. Schlorette
Exhibit No. 9	Letter from Laurel A. Nightingale dated May 22, 2001
Exhibit No. 10	DDES letter dated May 17, 2001

RST:gao
E9800732 RPT